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AUG 27 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dennis L. Bybee, Ph.D.
Vice President And Executive
Director
Global Village Schools Institute
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Alexandria, VA 22303
Phone: 703-960-3269
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http://www.intoschools.com

August 26, 1997

Ms. Kathleen Franco
Office of Commissioner Chong
Federal Communications Commission
Room 844
1919 M Street NW
Washington, DC 20554

Dear Ms. Franco:

This is an "ex parte" filing in the matter of the Commission's Order on Reconsideration of July 10, 1997 (FCC 97-246) on which the Education and Library Networks Coalition (EdLiNC) filed a petition for clarification and reconsideration in CC Docket No. 96-45 on August 19, 1997.

The following members of the Education and Library Networks Coalition (EdLiNC) and several telecommunications service provider representatives met with you on August 19, 1997 to discuss this issue: Kari Arfstrom (AASA), Jon Bernstein (NEA), Dennis Bybee (GVSI), Aleck Johnson (ALA) and Marvin Bailey (Ameritech), Mary Henze (BellSouth), and BB Nugent (US West).

In our meeting, we discussed this issue and our understanding that the majority of schools and libraries do not enter into single year contracts for telecommunications infrastructure requirements because they have strong incentives to both (a) adhere to cost-effective procurement procedures and (b) to secure the best possible price. In addition, through the normal course of business to ensure that communications services will be available for the coming school year, numerous schools and libraries have negotiated and signed multi-year contracts after November 8, 1996. [Please see attached letters and lists of such contracts provided to you during our meeting.]

The July 10 Order on Reconsideration limits discount coverage on post-November 8, 1996 contracts to one-year contracts and unfairly penalizes many schools/libraries for good-faith decisions that they made in the interest of their students and library patrons, and we strongly urge you to modify that ruling.

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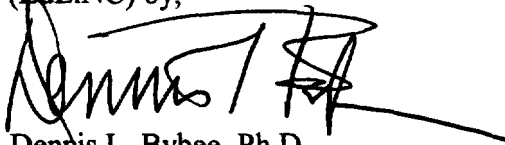
Re: Ex parte on FCC 97-246 (pg.2)

We understand that the Commission would like to ensure that any multi-year contracts signed after November 8, 1996 utilize procedures that obtain the equivalent of "lowest corresponding prices" from the telecommunication service provider. In addition to the recommendation we forwarded in our Petition, we suggest that the Commission adopt the following language in lieu of any specific limit on length of contract as a condition of eligibility:

"Services secured under contracts -- signed after November 8, 1996 and before the universal service requirements web site is operational -- will be eligible for discounts provided that the school or library applicant self certifies that in negotiating and entering into contracts signed after November 8, 1996 they: (1) followed all applicable state and local procurement laws; and, (2) either: (a) followed reasonable procedures to secure competitive prices, or (b) competitively bid for those services."

We appreciate the opportunity to meet with you on Tuesday and to suggest this language which addresses the multi-year contract eligibility criteria discussed in our Petition for Clarification and Reconsideration of the Commission's Order on Reconsideration of July 10, 1997 (FCC 97-246).

For the Education and Library Networks Coalition
(EdLiNC) by,

A handwritten signature in black ink, appearing to read "Dennis L. Bybee", with a long horizontal line extending to the right.

Dennis L. Bybee, Ph.D.
VP & Executive Director
Global Village Schools Institute

Attachments: As stated

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AUG 27 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**CEC**Corporation
for Educational
CommunicationsTwo Market Square Center
251 E. Ohio Street, Suite 960
Indianapolis, IN 46204
(317) 211-6525

August 14, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington, DC 20554

REF: CC DOCKET 96-45

Dear Mr. Canton:

I write on behalf of schools adversely affected by a recent amendment to the Code of Federal Regulations (Order on Reconsideration (97-246), July 10, 1997).

Although I am sure this retroactive decision was well intentioned, I must make you aware of the jeopardy in which several schools in Indiana have been placed because of it.

I am the executive director of a nonprofit organization that has developed and implemented planning, hardware, wiring, content development and professional development grants for schools in Indiana. This organization began its \$30M grants programs in July of 1994. Schools have been planning for and working through contracts for distance learning services since that time. To date over 200 schools have been able to take advantage of grants programs for distance learning.

This natural, evolving process since July, 1994, means that 18 schools in Indiana— a group that includes small, private schools and those in remote, rural areas of the state—in good faith and without any understanding of potential negative impact, did sign long-term (three-year) contracts for distance learning services after the FCC's stated date of November 8, 1996. These contracts will not expire by December 31, 1998. Per the Reconsideration, these schools are no longer eligible for Universal Service Discounts.

These schools have made arrangements for students to take dual credit courses from universities, teachers have revised curriculum to take advantage of the over 40 content providers (cultural organizations, medical facilities, and community-based entities, etc.), and teachers have signed up for professional development classes and workshops through the Distance Learning Network.

Through extensive state-wide communication efforts, all educators within Indiana were duly informed of the FCC's Joint Boards recommendation of November 8, 1996. Decision makers within these schools could not have foreseen that the FCC would later reverse what they believed to be true.

Hardware, wiring, and network usage grants were available to support their schools through our project. Educators knew that to take advantage of currently available grant programs within their state would enable them to provide much needed services to students and teachers. In good faith, they signed contracts with a distance learning network service provider that would give them the best price—a three-year contract.

And now they learn that for their prudence they will be punished.

Finding dollars for technology is extremely difficult for any school, but when you combine this reality with that of being private or rural, this challenge is daunting. Still, with the promises of financial support from the Telecommunications Act, they took a bold step into the future.

The Order on Reconsideration, 54.500 (b) (i) (ii), however, means school boards that have budgeted for discounted amounts must now find significant dollars they don't have. Most will not be able to do so.

Furthermore, there are numerous schools currently holding on to distance learning contracts for desperately needed services. Cost effective contracts do not expire prior to the Reconsideration date. Therefore, they are stymied in the critical, time-based decisions they must make.

The FCC Order on Reconsideration is a severe, economic punishment to schools—not a slap on the hand to some imagined or phantom “money-hungry communications provider.”

Surely it is not the intent of the FCC to punish education, but this is exactly what the Order on Reconsideration (97-246) did when it nullified the universal service discounts for these 18 schools in Indiana.

I urge you to understand the negative impact this amendment has on many schools and to make further amendments to rectify this wrong.

Surely you can agree that students should not be denied educational opportunities because of a well-intended but misapplied amendment.

Sincerely,



Ruth E. Blankenbaker
Executive Director

pc: ✓ Michael Huffman
Special Assistant for Technology
Indiana Department of Education

Examples of Affected Multi-year Contracts in New York and Maine

1. State: New York
School or Library District: Madison-Oneida BOCES
Contracting for What Services: Multichannel Video Service
Date Signed, or anticipated to be signed: June 20, 1997
Annual dollar amount: \$ 2,011,800.00
Length of contract in years: 7 years
2. State: New York
School or Library District: Oneida-Madison BOCES
Contracting for What Services: Multichannel Video Service
Date Signed, or anticipated to be signed: June 20, 1997
Annual dollar amount: \$ 2,642,094.00
Length of contract in years: 7 years
3. State: New York
School or Library District: Onondaga Coprtland Madison BOCES
Contracting for What Services: Service Discount Plan (Leased Line),
Frame Relay
Date Signed, or anticipated to be signed: May 1, 1997
Annual dollar amount: \$ 4,122,576.00
Length of contract in years: 5 years
4. State: Maine
- Master Contract with State for the States 170 high schools for NYNEX ATM
Cell Relay Service to support: high speed Internet Access, LAN
Interconnection between schools, and Interactive Video for distance
learning and professional development.
- Signed on 12/27/96 and is a five year contract
- Dollar amount estimated at \$2.4M per year. This is dependent on High
School demand.
5. State: New York
School or Library District: Southern Westchester BOCES
Service: Multichannel Video Service
Anticipated close date: September 15, 1997
Annual dollar amount: \$ 798,000
Contract length: 120 months



Metropolitan School District of Pike Township
6901 Zionsville Road
Indianapolis, Indiana 46268-2467
317-387-2220 FAX: 317-387-2246

Eric A. Witherspoon, Ph.D.
Superintendent of Schools

Donna U. Ewing
Executive Assistant

August 13, 1997

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington, DC 20554
Reference CC Docket 96-45

Dear Mr. Caton:

I disagree with the FCC Reconsideration Order issued on July 10, 1997 which nullified contracts signed after November 8, 1996 for universal service discounts for schools and libraries.

Our outstanding school district raises over ninety (90) percent of our funding for our local schools from local property taxes. Our remaining revenue is raised within the State of Indiana. We are excellent stewards of our local education revenue. We have entered into contracts for universal service discounts to save money and to get the biggest "bang for the buck" as we spend local revenue to educate our youth. We oppose an order from the FCC which nullifies the contracts we have negotiated.

This FCC order is arbitrary and places our school district in serious jeopardy of losing our discounts. I urge you to reconsider the order and not override local education decisions.

Sincerely,

A handwritten signature in cursive script that reads "Eric Witherspoon".

Eric A. Witherspoon, Ph.D.
Superintendent of Schools

EAW:de

Arfstrom, Kari

From: LAMPHLE@MAIL.STATE.WI.US[SMTP:LAMPHLE@MAIL.STATE.WI.US]
Sent: Wednesday, August 13, 1997 8:45 AM
To: Arfstrom, Kari
Cc: - (052)ITSERV02/ITPO02/LAMPHLE
Subject: FCC

BACKGROUND>>>>

By the end of 1997 there will be 20 digital/analog Video Switches and Video Links connecting 113 school districts, 33 Technical Colleges, and 11 Private Colleges/UW campuses throughout Wisconsin. The individual consortiums have invested over \$35,000,000 in the different distance learning networks over the last six years. The State of Wisconsin intends to build upon this investment and inter-connect all of these networks and provide a State-wide Distance Learning Network via RFP# 2918.

CURRENT WISCONSIN RFP# 2918

The primary objective of this RFP is to enter into a Lease Agreement with an experienced Vendor/Vendors who are best qualified to provide Video services. The Video Interconnect procurement and deployment, is in concert with the Ernst & Young, Evans Assoc. studies, the Blue Ribbon Task Force Report, and the Governor's office TEACH initiative. The regional video deployment effort has been a seven year process. This procurement supports the Governor's Educational Initiative called Technology for Educational Achievement (TEACH) in Wisconsin, TEACH Wisconsin sets forth a vision for connecting the educational systems of Wisconsin. This initiative provides support to school districts, libraries, private colleges, technical colleges and the UW system in their efforts to interconnect and create a seamless educational network for all of the State's citizens. Under the TEACH initiative School districts are assured of one link capable of providing direct access to the Internet or a two-way full motion video. The Video Interconnect Service which is encompassed within the TEACH Wisconsin initiative is being procured as a separate subsystem of the Access Bid.

The State of Wisconsin will acquire capital funding for the lease prepayment, and will execute a contract with the selected Vendor, and will act as lessor for the system. The State will also act as the Network Administrator to the Vendor, and will be responsible for expanding network capability in the future, acting on requests from users and potential users, and borrowing required capital to prepay the initial contract lease payments. The State will also act as the Statewide Scheduler to manage the scheduling of the Interconnect resources.

The contract shall be effective on the date indicated on the purchase order or the contract execution date and shall run for either five, six, or seven years dependent on the implementation date of the service. Payment terms shall be based upon completion milestones. Renewal shall be effected as an option by mutual agreement of the State of Wisconsin and the Vendor concerning time periods and compensation.

CONCLUSION>>>>

It is anticipated that the some schools will want service this year. This will be a multi-year contract of up to 7 years. This could be a problem if the FCC doesn't clarify the black-hole for the contracts signed after 11-6-96. The State of Wisconsin would appreciate the FCC to reacting to this as soon as possible. The State of Wisconsin would like our schools to be included in the subsidy. Without clarification, we anticipate that over 2500 of Wisconsin's libraries, Colleges, Universities, and school districts could be excluded. The value of this 7 year contract is over \$40,000,000. The State of Wisconsin's RFP timelines are as follows:

Best and Finals	8-22-97
Intent to Award	8-31-97
Contract Negotiations	9-1-97
Contract Signed	9-22-97
First Video Service	11-30-97

**** We have 2 parts to our access bid and I forgot the access portion....we just sent out a letter of Intent to Award a contract to a Consortium of Telco's for local T1 access links to over 1,000 sites. The contract value is over \$24,000,000! We are hesitant to sign a contract with them until we get certification from FCC that is ok to sign! Collectively we have over \$60,000,000 worth of access and video links that we need clarification on.

Loren Lamphear
Project Manager - BadgerNet
Department of Administration
State of Wisconsin

Arfstrom, Kari

From: Jamey Fitzpatrick[SMTP:fitz@mde.state.mi.us]
Sent: Thursday, August 14, 1997 4:30 PM
To: Arfstrom, Kari
Subject: Examples from Michigan

Karee,

Below are two email messages I received regarding your request for examples of schools that will be effected by the current USF rules on contracts which go past December 31, 1998.

Please call me if you have any questions. I will continue to forward items to you as I receive them.

Jamey Fitzpatrick
Michigan Department of Education
(517) 373-6331

Jamey,

The Muskegon Public Schools signed a contract with GTE for just over \$4. million in January 1997. This contract for for the installation of a WAN for voice video and data delivered by fiber to 450 classrooms in 19 building throughout the district. The complete installation is to be finished by November 1998. We are just about ready to connect the first building in September. The majority of this contract should apply for discount and Muskegon falls into the 80% category.

If you need further information, please let me know.

Regards, Theron Wierenga, Dir. of Technology and Research

//////////

Jamey,

Working with K-12 schools, I have several that have been seriously looking at 3-year contracts. These are very attractive because just recently Ameritech raised their circuit fees on 1-year contracts considerably, but offer *very* attractive rates for the 3-year contract -- sometimes saving the schools as much as \$300 per month. Ameritech is the only telco we work with that did this.

The portion of Internet connectivity that Merit charges is the same, regardless of any contract, and I stress to the schools that the 3-year contract is one we enter on their behalf with Ameritech, and is not necessarily with Merit. But in the Internet business, these are one and the same, since their circuit can't be moved to attach to a different provider without considering it a breach of contract with the telco.

That said, the one school I sold that entered into a 3-year contract within the last 10 months, one that extends beyond December, 1998, is

Summit Academy in Flat Rock, MI. On the 3-year contract, their circuit fee is \$641 per month. On a 1-year contract, it would have been \$900 per month.

I also know that at least one of the Midland Public School WAN attachments opted for the 3-year contract for similar reasons.

I have plenty of faxed quotes from Ameritech which show differences between the 1 and 3-year contract rates. I'd be happy to fax you copies if they would be helpful.

- Bev Vesota
MichNet K-12 Sales Consultant

MERIT NETWORK
4251 Plymouth Rd., Suite C
Ann Arbor, MI 48105-2785

PH 313-936-0263
FAX 313-647-3185
Email bev@merit.edu

end

Arfstrom, Kari

From: Rich Dirks[SMTP:rdirks@uwec.edu]
Sent: Wednesday, August 13, 1997 3:46 PM
To: Arfstrom, Kari
Cc: Dan E Adams; tiverson@mail.tds.net; lamphle@mail.state.wi.us; janem@cesa11.k12.wi.us; nelsonp@mail.state.wi.us; jnielsen@mail.state.wi.us; spillner@maqs.net; tonerm@mail.state.wi.us; wwink@mail.state.wi.us
Subject: FCC on Service Contracts

Kari,

In response to your request for information on distance education networks that signed contracts after November 8, 1996, there are two full-motion fiber based networks in that category in Wisconsin. It is important that all of the distance education networks in Wisconsin be eligible for the E-rate discounts, given that the Federal Program is an integral part of a statewide plan for offering discounted rates to schools throughout the state. If you need more specific information on each network, I suggest you contact them directly or if I can be of further assistance please let me know.

Richard M. Dirks
Director of Distance Education
Wisconsin Educational Communications Board
1221 W. Clairemont Ave.
Eau Claire, WI 54701-6126
Phone: 715-839-1615
FAX: 715-839-2939
ECB Web Site: <http://www.wecb.org/>

The networks are:

Indianhead Distance Education and Learning Network (IDEAL)
Service Area: Northwest Wisconsin
Contract Signed: April 14, 1997
Contract Length: 7 years
Members: Eleven - K-12 School Districts, One - Cooperative Educational Service Agency (CESA) 11, One - Wisconsin Indianhead Technical College (WITC)
Contract cost for the IDEAL Network is \$2,314,092.
Contact Person:
Jane Manske
CESA 11 Distance Learning Coordinator
225 Osterman Drive
Turtle Lake, WI 54889
Ph: 715-986-2020
FAX: 715-986-2040
janem@cesa11.k12.wi.us

Southwest Rural Telecommunications Network Consortium (SRTNC)
Area Served: Southwest Wisconsin
Contract Signed: May, 1997
Contract Length: 7 Years
Members: Nine - K-12 School Districts, One - Cooperative Educational Service Agency (CESA) 3, One - University of Wisconsin-Platteville, One -

Southwest Wisconsin Technical College

Contact Person:

Terri Iverson

Director, Regional Media Center

CESA 3

1300 Industrial Drive

Fennimore WI 53809-9702

608-822-3276 ext. 237

608-822-3828 FAX

tiverson@grant.tdsnet.com

Arfstrom, Kari

From: Linda Schatz[SMTP:SchatzL@state.mi.us]
Sent: Friday, August 01, 1997 5:31 PM
To: Arfstrom, Kari
Cc: Jan.VanDam@oakland.k12.mi.us
Subject: FCC Reconsideration order and existing contracts -Reply

Kari--

My name is Linda Schatz and I am the Director of the Office of the Michigan Information Network (MIN) for the State of Michigan. With regard to the issue of existing contracts per the note below from Leslie Harris, the State of Michigan has and will continue to enter into contracts for long-term telecommunications-related services and equipment. These state contracts, in anticipation of the USF funding, have been extended to the state's schools and libraries to provide them with what we believe to be very significant discounts that they would be unable to achieve locally or regionally. By aggregating the needs of the schools and libraries along with the immense buying power of state government, we believe that we have already gone through a competitive bidding process for these telecommunications-related services and equipment that will achieve the same impact as the bidding process defined in the USF Report and Order. We also believe that an additional benefit to the schools and libraries is that they will not have to go through the additional lengthy time, effort, and related costs required to produce the related RFP's required for the USF bidding process. For us there are two issues:

1. As Ms. Harris stated in her message, any contracts that were/are entered into after November 8, 1996, and before the USF competitive process is identified, may be for long-term contracts in an effort to achieve the best possible pricing structure. All of these contracts, many of which stipulate penalties for early terminations, will have to be rebid, possibly at less attractive pricing, for the period following December 31, 1998.
2. While we recognize and agree with the FCC's stated intention to achieve the best possible pre-discount pricing by requiring competitive bidding, we believe we have in the past and will achieve preferential pre-discount prices by entering into a competitive bidding process for statewide services that would allow schools and libraries to benefit from the state's contracts. We anticipate that these savings that can be passed on to schools and libraries will total \$ 10- 15 million annually for USF covered services. By requiring schools and libraries to go through an additional USF bidding process, not only are we duplicating costly effort in the RFP identification of services and preparation process, but additionally, schools and libraries will be required to wait the additional 4-6 week period for responses from the vendors responding to the USF bidding process. Again, our intent is not to "skip" the competitive bidding process desired by the FCC, but rather to expedite the process and minimize the related costs for the local schools and libraries.

If additional information would be helpful to you or Ms. Harris in your preparation of comments to the FCC, please do not hesitate to contact me.

Page 1

Linda S. Schatz
Director, Office of the Michigan Information Network
(517)-241-0572

Arfstrom, Kari

From: shdees@up.net[SMTP:shdees@up.net]
Sent: Thursday, July 31, 1997 2:38 PM
To: Arfstrom, Kari
Subject: usf reconsideration

In response to Jan Van Dam's request for information on contracts signed by schools and libraries between Nov 1996 and July 1997, please relay this specific information to the FCC for reconsideration of their spontaneous order regarding pre-existing contracts:

The Superiorland Library Cooperative issued a competitive bid 17 January 1997 to upgrade the old 9600 baud telecommunications network owned and operated by member libraries in the Upper Peninsula Region of Library Cooperation, Inc. The member libraries intend to establish a Wide Area Network to link the regional online automation system to the Internet. With the new WAN, the number of libraries with a direct Internet connection on 56k to fractional T1 lines will increase from two to eighteen. I have documentation to show we went through a competitive bid process, issuing bids to AT&T, Ameritech, and MCI. We awarded the bid to the lowest bidder, Ameritech. We had a LSCA Title I federal grant to purchase a Web server, routers, and dsu/csu. This grant funding would have been lost if we delayed installation of the telecommunications network past August, 1997. Ameritech offered us free installation and greatly reduced monthly costs for a 3 year contract. I waited as long as I could before ordering the data circuits, hoping that the FCC's ruling on preexisting contracts would be available. Because we are using channelized T1 service through the Marquette office, we had to give Ameritech some lead time before they would guarantee installation in August. Finally, on 19 June 1997, I ordered the circuits on a 3 year contract. We saved about \$15,000 over 3 years by going with the 3-year contract, including the installation fees waived. Our telco bills now will run about \$37,000 a year. We couldn't afford to gamble with the \$15,000, given the uncertainty about how the Universal Service Fund would be administered and the pending lawsuits. We entered into this 3 year contract in good faith, in no way intending to subvert the USF bidding process. We will have to pay heavy penalties to get out of the 3 year contract after 31 Dec 1998. We appreciate all the hard work by the FCC administrators, and hope they will reconsider their early order. Thanks for relaying this information.

Suzanne Dees shdees@up.net
Superiorland Library Cooperative, Director
UPRLC, Inc. Treasurer
1615 Presque Isle Ave.
Marquette, MI 49855
(906) 228-7697
fax 228-5627

Arfstrom, Kari

From: Karl Steiner[SMTP:ksteiner@vc.lib.mi.us]
Sent: Wednesday, August 13, 1997 10:01 AM
To: Arfstrom, Kari
Cc: shdees@up.net
Subject: RE: usf reconsideration

Suzanne Dees, Superiorland Library Cooperative, sent me a copy of her letter to you. My organization is in a similar situation. Our three year contract with Ameritech on 19 circuits comes due on August 19, 1997. In addition we have 5 circuits with contracts of 3 years starting in early 1997 (before USF).

The reconsideration order means that we are having to accept a much higher month-month rate until Jan 1998 for the 19 circuits rather than taking out another 3 year contract just so we can take advantage of the Universal Service Funds (which may never materialize). The other 5 circuits are also going to a month-to-month basis which means the libraries will have to now pay the cost of installation (formerly waived on the 3 year contract) and see a substantial increase in there monthly billing.

The Valley Library Consortium will lose over \$4,000 because the USF will not recognize our contracts as pre-existing. I don't think this was the intention of the law. Why are these pre-existing contracts being excluded?

I hope you can help with this matter. Thanks.

Karl Steiner
Systems Administrator
Valley Library Consortium
7400 Bay Rd.
University Center, MI 48710
ksteiner@valley.vc.lib.mi.us
fax 517.790.7537
vox 517.790.4035

Arfstrom, Kari

From: Alan Wibbels[SMTP:awibbels@genie.esu10.k12.ne.us]
Sent: Friday, August 08, 1997 9:38 AM
To: Arfstrom, Kari
Subject: FCC service contracts

In Nebraska, we have numerous 56KB and T1 connections that are have been and are being installed between the November 96 and whenever the fund administrator is ready to receive applications.

In addition, from July - October 1997, we will have between 15-25 distance-learning sites come up. In order to get the best pricing on the annual charges, the schools had to sign a contract for 10 years with options out at the end of every four. These rates are being determined by bidding competition between telephone companies and cable companies. They have all agreed to bid again in January 1999 if necessary but it will be a headache for everyone involved.

Please make it as easy as possible for schools access the funds and the service.

Alan

Alan Wibbels * Media Technology Director
ESU 10 * 76 Plaza Blvd. * P.O. Box 850 * Kearney, NE 68847-0850
Voice: 308-237-5927 * Fax: 308-233-9066
awibbels@genie.esu10.k12.ne.us
<http://www.esu10.k12.ne.us>

DUTCHESS COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES

Central Administration
578 Salt Point Turnpike, Poughkeepsie, NY 12601
Telephone: (914) 486-4800

FAX (914) 486-4981 - District Superintendent's Office
FAX (914) 486-4821 - Business Office
FAX (914) 486-4818 - Safety & Risk

FAX To:Date: 8-12-97To: Kari ArfstromFrom: L. Nagy for D.Hutton

Number of Pages Transmitted (including this page) 1. If you do not receive all pages
in legible form, please call: Shaula Ext. 201

This correspondence will be mailed: Yes No X

Additional Comments:

Re: Fax of 8/7/97 from Melissa Adkins "FCC on Service Contracts"

This is being sent to you at the request of Dr. Duane Hutton in response to the
referenced fax. The "black hole" period contracts for Dutchess BOCES come to
approx. \$220,000. The figure represents server, router, and hub related costs
which are part of BOCES obligations for school districts in Dutchess County.
In the event you have questions, please contact Laszlo (Les) Nagy at the above
number.

Thank you.

YAKIMA VALLEY REGIONAL LIBRARY

102 NORTH THIRD STREET • YAKIMA, WASHINGTON 98901-2705
PHONE (509) 452-8541

August 7, 1997

Chairman Reed Hundt
Commissioners Rachelle Chong, Susan Ness, and James Quello
Federal Communication Commission
1919 M Street NW
Washington, DC 20554

Dear Commissioners:

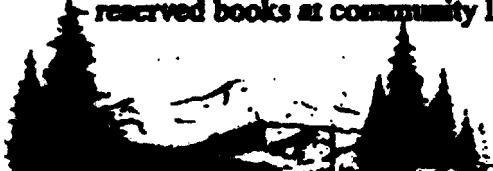
I am writing of concern about the Order on Reconsideration issued on July 10, 1997, in the matter of the Federal-State Joint Board on Universal Service, Docket No. 96-45. In the Order, libraries which have signed contracts for telecommunication services after November 6, 1996, and prior to the date that the competitive bid system becomes operational, will not be eligible for federal universal service fund discounts after December, 1998.

This Regional Library has, in good faith, developed its planning and conducted competitive bidding. The federal universal service fund, surely, was designed for poor, rural public libraries, such as the Yakima Valley Regional Library. We do not believe that we should be penalized!

We are concerned that the effective date of the Order is retrospective. It places libraries, such as the Yakima Valley Regional Library, under an unfair burden.

The Yakima Valley Regional Library provides public library service to 204,800 people in a 4,271 square mile county through twenty (20) community libraries with a \$3.5 million annual budget. Yakima County ranks second in Washington State in the proportion of school population eligible for the school lunch program (56%) which makes it eligible for an 80% discount through the federal universal service fund.

The Regional Library System currently supports data telecommunications on low speed, voice grade, analog leased lines to ten (10) community libraries at an annual cost of \$18,180. The expanded service using 56k frame relay service to nineteen (19) community libraries, a T1 line to the host site at the Yakima Library, and 128k frame relay for Internet access will cost the Regional Library System \$50,675 per year. This represents a cost that is almost three times greater than current telecommunication costs, albeit with vastly improved capability and coverage. The percentage of the budget used for telecommunications will rise from .5% to 1.4%. The additional \$32,490 to support data telecommunications is being financed by eliminating positions (two full-time positions, so far) as they become vacant, canceling Books-by-Mail service, establishing overdue fees, and shifting from mailing reserved books to library customers to requiring customer pick up their reserved books at community libraries.



Yakima County is served by five (5) local exchange carriers (LECs)—US West, Sprint/United, GTE, Cowiche Telephone, and Ellensburg Telephone. After talking with all of them, I concluded that installing and managing a Wide Area Network (WAN) using frame relay service was beyond my capability.

So, the Regional Library System conducted competitive bidding to select a vendor to install and manage our WAN. We sent Requests for Proposal (RFP) to the five (5) LECs, all Internet Service Providers (ISPs) listed in the local yellow pages, and placed an ad in the legal notices of the local daily newspaper which was picked up by the Seattle Business Daily.

After receiving the seventh (7th) call of inquiry from a telecommunication or Internet vendor in a single day about our WAN project, I concluded that evaluating these proposals alone was beyond my capability.

So, to adequately evaluate the fifteen (15) proposals received for this rural project from all over the Northwest, I requested assistance from local experts. I assembled a committee composed of the Regional Library System's automation consultant (the Director of Information Technology at the University of Iowa Library), the Communication Manager for Yakima County Government, two people from Corporate Information Services from Tree Top, Inc., which maintains extensive wire and wireless WANs serving their company (their primary product is Tree Top Apple Juice), the Regional Library's Information Technology Manager and Deputy Director, and myself, to evaluate the proposals. The committee pared the list to four proposals. I spent a Saturday afternoon creating a spreadsheet to compare the proposed equipment, installation charges, recurring fees, any comments or observations, and the five-year cost. US West Communication was selected as the most responsible lowest bid. I still am dealing with two unsuccessful bidders who want detailed explanations about why their proposals were not selected.

The Regional Library System is installing its WAN at this time because of two grant cycles being sponsored by the Washington State Library. These special grant cycles are the last Library Service and Construction Act (LSCA) Title I and III grant cycles in the State of Washington. These cycles were planned before anyone knew the FCC's schedule or rules for the federal universal service fund. The first grant cycle, which was awarded on June 14, 1997, will provide twenty (20) Internet workstations for the Regional Library System, one for each community library. They must be installed in the WAN by September 30, 1997. The second grant cycle will provide funds to replace and improve equipment and systems necessary to support enhanced electronic connectivity for library customers. Awards for this grant cycle will be announced on September 12, 1997. The project to replace our fifteen (15) year old computer system and all the attendant database conversion and installation problems must be completed in eighteen months.

And now, the Order is telling me that because the contract resultant from our competitive bidding was consummated after November 6, 1996, and prior to the date the competitive bidding system becomes operational, the Regional Library becomes ineligible for a federal universal service fund discount after December 1998!

Even without this Order, I am trying to picture how the FCC's competitive bidding process would work. Let's take the Regional Library System for an example. The Regional Library System has just gone through a competitive bidding process which yielded fifteen (15) proposals. We have to be

sure that the contract we sign with US West Communication to install our WAN will allow the Regional Library to participate in the federal universal service fund because the 80% discount means a lot to public library services that can be provided to the people of Yakima County. We would be resubmitting our WAN for competitive bidding on the FCC's website six (6) months from now. Since this project will be advertised nationally, I'm sure there will be many more than fifteen (15) proposals for us to review and evaluate. Although I am learning a great deal about WANs and telecommunication services, evaluating a new slew of telecommunication and Internet service proposals will be beyond my capability. What a cumbersome, time consuming process! Meanwhile, US West Communication has just installed frame relay service, and resolved the attendant local loop upgrade problems, to twenty (20) community libraries in Yakima County.

The contract proposed by US West Communications is for a thirty-six month period with an automatic renewal for one (1) year. Had we not known about the Order, the Regional Library System would have signed the contract. The Regional Library System would have been bound to the agreement for the entire term and required to satisfy all obligations thereunder, including a maintenance agreement of \$17,000 per year.

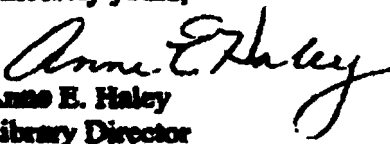
We are feeling double penalized. The Regional Library is bearing the cost of installing its WAN because our grant-driven timetable is not consistent with the FCC's federal universal service fund schedule, AND, by this Order, the Regional Library will not be able to participate in the federal universal service fund after December, 1998. The retrospective nature of the Order also is troubling. Had we known of the contents of the Order in November, 1996, when it became effective, we would have planned a little differently. I'm sure US West Communication is wondering where they stand.

May I request the FCC reissue the Order. Yakima Valley Regional Library, like most libraries, has stringent bidding requirements set by state law. As our example shows, these practices often lead to numerous bidders—fifteen (15) in our case—seeking to provide telecommunication services. We believe that these requirements should be sufficient to allow libraries who have bid contracts since the Joint Board decision to participate in the federal universal service program. This should be extended up until the date the website competitive bidding becomes operational. At the very least, libraries should be allowed to waive the requirement of competitive bidding if a library can provide evidence of competitive bidding. And, libraries should be allowed to participate in the federal universal service fund even if they consummated contracts with telecommunication vendors after November 6, 1996, and prior to the date the competitive bidding system becomes operational.

I think this request more adequately reflects the spirit of the Telecommunications Act of 1996.

Thank you for your attention and action, and for your continued, unstinting support of libraries and schools.

Sincerely yours,


Anne E. Haley
Library Director